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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

GREENFIELD, ET AL.,

Plaintiffs,

vs.

BRENNER, ET AL.,

Defendants.

NO. CV-05-5120-LRS

**MEMORANDUM IN SUPPORT OF  
MOTION TO QUASH SERVICE  
AND DISMISS BENTON  
COUNTY; MOTION TO DISMISS  
ALL CLAIMS AGAINST THE  
BENTON COUNTY  
PLANNING/BUILDING  
DEPARTMENT AND GARY  
BRENNER, ELISA VINING,  
CRAIG STILWILL, TERRY  
MARDEN, STEVE BROWN, AND  
ANDY MILLER IN THEIR  
OFFICIAL CAPACITIES; AND  
TO DISMISS PLAINTIFFS'  
SECOND, THIRD AND  
ELEVENTH CAUSES OF ACTION  
AGAINST THE ABOVE  
DEFENDANTS AND AGAINST  
DEFENDANTS GARY BRENNER,  
ELISA VINING, CRAIG  
STILWILL, AND STEVE BROWN  
IN THEIR INDIVIDUAL  
CAPACITIES**

This memorandum is submitted on behalf of Benton County, the Benton County Planning/Building Department, Terry Marden and Andy Miller, both in their official capacities, and Gary Brenner, Elisa Vining, Craig Stilwill, and Steve Brown in both their official and individual capacities (all such defendants hereinafter referred to collectively, as "the County defendants"), in support of their various motions to quash service and dismiss under Civ.R. 12(b)(5)

1 and to dismiss under Civ.R. 12(b)(6).

2 **I. FACTS/ALLEGATIONS IN COMPLAINT**

3 **A. IDENTIFICATION OF DEFENDANTS.**

4 Plaintiffs have named 18 separate identifiable defendants and  
5 50 unknown defendants. Complaint, pp. 1 and 4-7. The County  
6 defendants constitute 12 of the identifiable defendants. Id.  
7 Benton County is named as a defendant, as well as one of its  
8 departments, the Planning/Building Department. Id. Additionally,  
9 plaintiffs have named the following six persons as defendants in  
10 their "official capacities" as alleged employees and/or officers of  
11 Benton County: Gary Brenner, Benton County code enforcement  
12 officer; Elisa Vining, Benton County Deputy Prosecuting Attorney;  
13 Craig Stilwill, Benton County District Court Commissioner; Terry  
14 Marden, Benton County Planning Director; Steve Brown, supervisor in  
15 building department; and Andy Miller, Benton County Prosecuting  
16 Attorney. Compl., ¶¶15, 25, 30, 34-35, 37-38.

17 Plaintiff has also named the following four County employees  
18 as defendants in his or her "individual capacity": Gary Brenner;  
19 Elisa Vining; Craig Stilwill; and Steve Brown. Compl., pp. 1 and  
20 6-7. Six other persons or entities have also been named that are  
21 not County defendants. See Compl., p. 1.

22 **B. THREE OF PLAINTIFFS CLAIMS ARE BASED ON ALLEGED VIOLATIONS OF  
23 FEDERAL CRIMINAL LAWS.**

24 Plaintiffs have alleged thirteen causes of action against each  
25 defendant. Compl., ¶¶68-106. Plaintiffs' Second Claim seeks  
26 damages and an injunction of some sort based upon an alleged  
27 "conspiracy" by all defendants to: (a) interfere with plaintiffs

1 "free exercise of their rights as [property] owners" in violation  
2 of 18 U.S.C. § 241; and (b) "deprive Plaintiffs of rights,  
3 privileges and immunities secured by the Constitution specifically  
4 prohibited pursuant to Title 42 U.S. § 1985(3)". Compl., ¶¶72-72  
5 [sic].<sup>1</sup>

6 Plaintiffs Third Claim for "punitive damages" is based upon  
7 alleged

8 'conduct [] committed in an oppressive manner' with  
9 intent to threaten and intimidate Plaintiffs in their  
10 free exercise of their constitutional rights . . . under  
the Equal Protection Clause . . .

11 in violation of 18 U.S.C. § 242. Compl., ¶¶75-76.

12 Plaintiffs Eleventh Claim is against all defendants for  
13 injunctive relief and damages based upon an alleged violation of  
14 the Hobbs Act., 18 U.S.C. § 1951. Compl., ¶99. The alleged facts  
15 underlying this alleged violation are that defendants conspired to  
16 prevent Plaintiffs' use of a wind turbine to produce electricity  
17 and to commit "extortion under color of right." Id.

18 **C. THE SUMMONS DIRECTED TO BENTON COUNTY WAS SERVED UPON A  
RECEPTIONIST IN THE BENTON COUNTY PROSECUTOR'S OFFICE.**

19 On December 27, 2005, the Court issued a Summons directed to  
20 the "County of Benton, Washington." Plaintiffs filed that Summons  
21 with the Court on January 9, 2006, along with a return of service.  
22 The return of service was executed by Mary Sluyter on December 28,  
23 2005. Ms. Sluyter declared under oath that she left copies of that  
24 Summons and Complaint

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25 <sup>1</sup>Plaintiffs have numbered three separate paragraphs as paragraph  
26 72. Their "conspiracy" allegations are set forth in these three  
27 paragraphs, collectively.  
28

1 at the defendant's dwelling house or usual place of abode  
2 with a person of suitable age and discretion then  
3 residing therein. County of Benton in its municipal  
4 capacity at 7122 W. Okanogan Place, Box G Kennewick WA.  
99336. The name of the person with whom the summons and  
complaint were left: Heather Ramey receptionist for  
County of Benton Washington.

5 See Summons and Return of Service on defendant Benton County on  
6 file with Court.

## 7 **II. STANDARD OF REVIEW**

### 8 **A. MOTION TO QUASH AND DISMISS UNDER CIV.R. 12(b)(5).**

9 Federal courts do not have personal jurisdiction over  
10 defendants unless they are served properly under Civil Rule 4. See  
11 Civ.R. 4(c); Direct Mail Specialists, Inc. v. Eclat Computerized  
12 Tech., Inc., 840 F.2d 685, 688 (9th Cir. 1988). Without compliance  
13 with Rule 4, mere notice to the defendant does not provide personal  
14 jurisdiction. Id. Civil Rule 12(b)(5) permits a defendant to  
15 challenge a plaintiff's method of service. See e.g., Cranford v.  
16 US, 359 F.Supp.2d 981, 984 (E.D. Cal. 2005). When service is  
17 challenged, the plaintiff bears the burden to demonstrate valid  
18 service. Grand Entertainment Group, Ltd. v. Star Media Sales,  
19 Inc., 988 F.2d 476, 488 (3d Cir. 1993). Where service is not  
20 demonstrated to be sufficient, the purported service shall be  
21 quashed and the Court may dismiss the action against such  
22 defendant. See e.g., Montalbano v. Easco Hand Tools, Inc., 766  
23 F.2d 737, 740 (2nd Cir. 1985); Cranford, 359 F.Supp.2d at 984.

### 24 **B. MOTION TO DISMISS UNDER CIV.R. 12(b)(6).**

25 With respect the motions under Civ.R. 12(b)(6), the Court must  
26 "accept as true the facts alleged in the complaint." Zimmerman v.  
27 Or. Dep't of Justice, 170 F.3d 1169, 1171 (9th Cir. 1999), cert.

1 denied, 531 U.S. 1189 (2001). However, it is only those facts  
2 alleged in a complaint that may be considered. "The Court may not  
3 . . . take into account additional facts asserted in a memorandum  
4 opposing the motion to dismiss . . . ." Schneider v. Cal. Dep't of  
5 Corrections, 151 F.3d 1194, 1197 n. 1 (9th Cir. 1998)(quoting Vol.  
6 2 Moore's Federal Practice, § 12.34[2] (Matthew Bender 3d ed.)).

7 Dismissal of a claim or a defendant under Civ.R. 12(b)(6) as  
8 a matter of law is appropriate if the complaint reflects: (1) a  
9 lack of cognizable legal theory; or (2) insufficient facts under a  
10 cognizable legal claim. See e.g., Robertson v. Dean Witter  
11 Reynolds, Inc., 749 F.2d 530, 534 (9th Cir. 1984). Further, such  
12 dismissal must be with prejudice and without leave to amend if the  
13 deficiency or deficiencies in the complaint cannot be cured by  
14 amendment. See e.g., Reddy v. Litton Indus., Inc., 912 F.2d 291,  
15 296 (9th Cir. 1990)(affirming dismissal pursuant to Civ.R. 12(b)(6)  
16 with prejudice and without leave to amend when any proposed  
17 amendment would be futile), cert. denied, 502 U.S. 921 (1991).

### 18 III. ARGUMENT

#### 19 A. THE BENTON COUNTY PLANNING/BUILDING DEPARTMENT IS NOT A 20 DEFENDANT AGAINST WHOM RELIEF MAY BE GRANTED.

21 The US Supreme Court has acknowledged that municipal  
22 departments are merely arms of the local government and have "no  
23 greater separate identity from the [local government]" than do  
24 individual officers of the government entity acting in their  
25 official capacity. Brandon v. Holt, 469 U.S. 464, 472 (1985).  
26 Based on Brandon and its progeny, federal courts have routinely and  
27 matter-of-factly held that because departments of municipal

1 entities have no identity independent of the municipalities  
2 themselves, such departments cannot be sued separately. See e.g.,  
3 Vance v. Santa Clara Co., 928 F.Supp. 993, 996 (N.D. Cal. 1996)  
4 (dismissing Santa Clara Department of Corrections as an improper  
5 defendant); Stump v. Gates, 777 F.Supp. 808, 816 (D. Colo. 1991)  
6 (dismissing police department and coroner's office because not  
7 legal entities separate from city and county), aff'd, 986 F.2d 1429  
8 (10th Cir. 1993); Kujawski v. Bd. of Comm'rs of Bartholomew Co.,  
9 999 F.Supp. 1234, 1237 (S.D. Ind. 1998), rev'd on other grounds,  
10 183 F.3d 734 (7th Cir. 1999); Post v. City of Fort Lauderdale, 750  
11 F.Supp. 1131, 1132 (S.D. Fla. 1990)(dismissing police department  
12 and planning department).

13 Under Washington law, there is no provision authorizing county  
14 planning departments to sue or be sued in their own name separate  
15 and distinct from the counties creating such departments under RCW  
16 36.70.040. See Chapter 36.70 RCW. Each county is authorized to  
17 sue and be sued, not their respective planning departments. See  
18 RCW 4.96.010; RCW 36.120(6).

19 Consequently, consistent with the cases cited above, the  
20 Benton County Planning/Building Department should be dismissed with  
21 prejudice from this lawsuit pursuant to Civ.R. 12(b)(6). The  
22 plaintiffs have named Benton County as a defendant, and its  
23 planning department is not an entity subject to suit separate and  
24 apart from Benton County.

25 **B. WHEN OFFICIALS ARE SUED IN THEIR OFFICIAL CAPACITY AND THE**  
26 **MUNICIPALITY THEY REPRESENT IS ALSO SUED, SUCH CLAIMS AGAINST**  
27 **THE OFFICERS ARE DUPLICATIVE AND SHOULD BE DISMISSED.**

28 Personal capacity suits seek to impose personal liability upon

1 a government official for actions he or she takes under color of  
2 law. Kentucky v. Graham, 473 U.S. 159, 165 (1985)(holding that  
3 governmental entity not liable for damages or attorney fees when  
4 judgment was entered against government official sued in his or her  
5 personal, or individual, capacity). In contrast, official capacity  
6 suits "represent only another way of pleading an action against an  
7 entity of which an officer is an agent." Graham, 473 U.S. at 165  
8 (quoting Monell v. New York City Dep't of Social Servs., 436 U.S.  
9 658 (1978)). An official capacity suit is "not a suit against the  
10 official personally, for the real party in interest is the entity."  
11 Graham, 473 U.S. at 165 (emphasis in original). Consequently,  
12 damage awards against defendants sued in their official capacity  
13 must be collected from the government entity, while damage awards  
14 against defendants sued in their personal capacity may be collected  
15 from their personal assets. Id.

16 Therefore, there is no reason to allow plaintiffs to maintain  
17 an action against both a governmental entity and one or more of its  
18 officers in their official capacities. Suing both the entity and  
19 its officers in their official capacities is equivalent to naming  
20 the same defendant more than one time. Thus, to avoid duplication  
21 of claims, documents and pleadings and to prevent the waste of  
22 public funds for increased attorneys fees, federal courts routinely  
23 grant motions to dismiss officers sued in their official capacity  
24 when the governmental entities that they serve are also named. See  
25 e.g., Vance, 928 F.Supp. at 996 (dismissing correctional officers  
26 to extent sued in their official capacity when county for which  
27 they worked also named as defendant); Rosa R. v. Connelly, 889 F.2d

1 435, 437 (2nd Cir. 1989)(dismissing superintendent of schools sued  
2 in his official capacity because board of education was real party  
3 in interest), cert. denied, 496 U.S. 941 (1990); Carnell v. Grimm,  
4 872 F.Supp. 746, 752 (D. Haw. 1994)(dismissing the duplicative  
5 claims against police officers in their official capacity when  
6 entity also named), aff'd in part and appeal dismissed in part, 74  
7 F.3d 977 (1996); Quiroz v. Licalsi, slip op. at p. 30 (2005 WL  
8 3283708) (E.D. Cal. 2005) (dismissing as redundant and duplicative  
9 claims against district attorney in his official capacity made  
10 concurrently with claim against county); Ebelt v. County of Ogemaw,  
11 231 F.Supp.2d 563, 568 (E.D. Mich. 2002)(dismissing official  
12 capacity claims against two county commissioners when named both  
13 individually and in official capacity along with the county they  
14 represent).

15 At least one court has held that for similar reasons  
16 plaintiffs cannot sue an official in his or her official capacity  
17 *in lieu* of suing the governmental entity that he or she represents.  
18 In Luke v. Abbott, 954 F.Supp. 202, 204 (C.D. Cal. 1997), the Court  
19 held that

20 it is no longer necessary or proper to name as a  
21 defendant a particular local government officer acting in  
22 official capacity. . . . A plaintiff cannot elect which  
23 of the defendant formats to use. If both are named, it  
24 is proper upon request for the Court to dismiss the  
25 official-capacity officer, leaving the local government  
entity as the correct defendant. If only the official-  
capacity officer is named, it would be proper for the  
Court upon request to dismiss the officer and substitute  
instead the local government entity as the correct  
defendant.

26 Thus, in Luke the Court denied the plaintiff's motion to allow it  
27 to choose whether to name district attorney in his official  
28



1 capacity or to name the county for which he was district attorney.  
2 Id. at 204.

3 In this matter, the Greenfields and Ms. Logsdon have named  
4 Benton County as well as six of its officers in their official  
5 capacity. For the reasons set forth above, pursuant to Civ.R.  
6 12(b)(6) all claims against defendants Miller, Brown, Marden,  
7 Stilwill, Vining and Brenner in their official capacity should be  
8 dismissed with prejudice. Benton County is the real party in  
9 interest with respect to those claims, and the plaintiffs should be  
10 required to proceed solely against Benton County.

11 **C. PLAINTIFFS' SERVICE ON BENTON COUNTY SHOULD BE QUASHED AND THE**  
12 **COUNTY DISMISSED UNDER CIV.R. 12(b)(5) DUE TO PLAINTIFFS'**  
**FAILURE TO PROPERLY SERVE THE SUMMONS AND COMPLAINT.**

13 Under Civ.R. 4(j), service of a summons and complaint shall be  
14 made on a state, municipal corporation and other governmental  
15 organizations by service as prescribed by state law or by service  
16 upon the chief executive officer, if one, of such entity.  
17 Washington law requires that in actions against counties, service  
18 shall be by delivering a copy of the summons and complaint to the  
19 county auditor or, during normal business hours, to the deputy  
20 auditor. RCW 4.28.080(1). Washington law does not designate a  
21 "chief executive officer" position for counties. See WASH. CONST.,  
22 art. XI § 5. Therefore, service must be made on the County Auditor  
23 pursuant to RCW 4.28.080(1). Cf. Allison v. Utah Co. Corp'n, 335  
24 F.Supp.2d 1310, 1313 (D. Utah 2004).

25 The return of service upon defendant Benton County filed in  
26 this case on January 9, 2006, indicates that service of Benton  
27 County's summons and complaint was made by leaving copies with a  
28

1 person named Heather Ramey, a receptionist employed at 7122 W.  
2 Okanogan Place, Box G, Kennewick, WA 99336. Plaintiffs do not  
3 claim that Ms. Ramsey is the Benton County Auditor. Further, her  
4 alleged position as a receptionist certainly is not akin to that of  
5 a chief executive officer.

6 Consequently, Benton County has not been properly served in  
7 this matter. The return of service of the Summons for Benton  
8 County should therefore be quashed, and Benton County respectfully  
9 requests that all claims against it be dismissed.

10 **D. PLAINTIFFS SECOND CLAIM FOR AN ALLEGED CONSPIRACY SHOULD BE**  
11 **DISMISSED WITH RESPECT TO ALL COUNTY DEFENDANTS.**

12 Plaintiffs assert a claim for relief for "conspiracy" based  
13 upon alleged violations of two federal statutes: 18 U.S.C. § 241  
14 and 42 U.S.C. § 1985(3). Compl., ¶¶71-73.

15 **1. As a Matter of Law, 18 U.S.C. § 241 Does Not Provide a**  
16 **Basis for Civil Liability.**

17 Plaintiffs allege that the "jury can award damages and  
18 injunctive relief [against all defendants] pursuant to 18 U.S.C. §  
19 241 . . . ." Compl., ¶72. However, it is well settled that 18  
20 U.S.C. § 241 is solely a criminal code provision and "provide[s] no  
21 basis for civil liability." Aldabe v. Aldabe, 616 F.2d 1089, 1092  
22 (9th Cir. 1980); accord, Clark, v. Glendale Union High School  
23 Dist., slip op. at p. 2 (2006 WL 58025)(D. Ariz. 2006).  
24 Consequently, as a matter of law plaintiffs cannot maintain a cause  
25 of action against the County defendants based on any violation of  
26 18 U.S.C. § 241.  
27  
28

1           **2. Plaintiffs Have Failed to Allege a Cause of Action Under**  
2           **42 U.S.C. § 1985(3) Because There Has Been No Alleged**  
3           **Class-Based, Invidious Discriminatory Actions Against**  
4           **Members of a Protected Class.**

5           To state a claim for relief under 42 U.S.C. § 1985(3),  
6           plaintiffs must allege the following four elements:

7           (1) a conspiracy; (2) for the purpose of depriving,  
8           either directly or indirectly, any person or class of  
9           persons of the equal protection of the laws, or of equal  
10          privileges and immunities under the laws; (3) an act in  
11          furtherance of the conspiracy; (4) whereby a person is  
12          either injured in his person or property or deprived of  
13          any right or privilege of a citizen of the United States.

14          United Bhd. of Carpenters & Joiners v. Scott, 463 U.S. 825, 828-29,  
15          reh'g denied, 464 U.S. 875 (1983). The referenced second element  
16          requires an intent to deprive persons of equal protection of the  
17          law or equal privileges under the law that is "motivated by 'some  
18          racial, or perhaps otherwise class-based, invidiously  
19          discriminatory animus behind the conspirators' action.'" Id. at 829  
20          (quoting Griffin v. Breckenridge, 403 U.S. 88, 102 (1971)).

21          The Ninth Circuit has interpreted the "class-based"  
22          discrimination requirement as allowing § 1985(3) claims to extend  
23          beyond race [discrimination] 'only when the class in  
24          question can show that there has been a governmental  
25          determination that [the class] members 'require and  
26          warrant special federal assistance in protecting their  
27          civil rights.''

28          Sever v. Alaska Pulp Corp., 978 F.2d 1529, 1536 (9th Cir.  
1992)(holding no cause of action as a matter of law for allegations  
of conspiracy to deprive those who testify before Congress from  
their protected right to petition Congress for redress). This  
analysis is consistent with the background rule that § 1985(3) "is  
not to be construed as a general federal tort law." Id. at 1536

1 (quoting Gerritsen v. de la Madrid Hurtado, 819 F.2d 1511, 1518-19  
2 (9<sup>th</sup> Cir. 1987)).

3 Based on these rules of law, the Ninth Circuit has, by way of  
4 example, denied § 1985(3) claims as a matter of law by plaintiffs  
5 alleging conspiracies to discriminate against homosexuals,  
6 Holocaust revisionists and a coalition of state representatives.  
7 See Sever, 978 F.2d at 1537 (citations to cases set forth therein).

8 The Greenfields and Ms. Logsdon have failed to allege that  
9 they are members of any class subject to an alleged conspiracy with  
10 invidiously discriminatory animus, and certainly have not alleged  
11 they are members of any class that Congress has determined warrants  
12 special civil rights protection. Therefore, all the County  
13 defendants respectfully request that plaintiffs Second Claim for  
14 Conspiracy be dismissed pursuant to Civ.R. 12(b)(6). See United  
15 Screeners Ass'n Local One v. City and Co. of San Francisco, slip  
16 op. (2005 WL 2671384)(N.D. Cal 2005)(granting 12(b)(6) motion to  
17 dismiss due to failure to allege protected class status).

18 **E. PLAINTIFFS THIRD CLAIM FOR VIOLATION OF 18 U.S.C. § 242 IS NOT**  
19 **A COGNIZABLE LEGAL THEORY AND MUST BE DISMISSED WITH PREJUDICE**  
20 **AGAINST ALL COUNTY DEFENDANTS.**

21 Plaintiffs Third Claim is for a deprivation of civil rights  
22 under color of law in violation of 18 U.S.C. § 242. See Compl.,  
23 ¶¶77-78. This is a federal criminal statute and provides no basis  
24 for civil liability. See e.g., Aldabe, 616 F.2d at 1092. Because  
25 any amendment of the Complaint regarding this cause of action would  
26 be futile, dismissal of this cause of action should be with  
27 prejudice and without leave to amend. See Reddy, 912 F.2d at 296.  
28 Further, plaintiffs still have pending their Seventh Claim

1 similarly alleging a deprivation of rights under 42 U.S.C. § 1983.

2 **F. PLAINTIFFS ELEVENTH CLAIM FOR VIOLATION OF 18 U.S.C. § 1951 IS**  
3 **NOT A COGNIZABLE LEGAL THEORY AND MUST BE DISMISSED WITH**  
4 **PREJUDICE AGAINST ALL COUNTY DEFENDANTS.**

5 Plaintiffs Eleventh Claim is for extortion in violation of 18  
6 U.S.C. § 1951. See Compl., ¶¶98-100. This too is a federal  
7 criminal statute, and the courts that have addressed the issue have  
8 uniformly held that it provides no basis for civil liability. See  
9 e.g., Wisdom v. First Midwest Bank, 167 F.3d 402, 408-09 (8th Cir.  
10 1999); Creech v. Fed'l Land Bank, 647 F.Supp. 1097, 1099 (D. Colo.  
11 1986). Again, because any amendment regarding this cause of action  
12 would be futile, dismissal of plaintiffs' Eleventh Claim should be  
13 with prejudice and without leave to amend. See Reddy, 912 F.2d at  
14 296.

15 **G. PLAINTIFFS SHOULD BE ORDERED TO COMPLY WITH LR 3.2 OR HAVE**  
16 **THEIR TWELFTH CLAIM DISMISSED.**

17 Plaintiffs' Twelfth Claim is for relief against all defendants  
18 for an alleged "violation of Civil RICO" and relief under the RICO  
19 statutes of 18 U.S.C. §§ 1964(a) and (c). Compl., ¶102. As such,  
20 plaintiffs were obligated to file and serve a RICO Case Statement  
21 within ten days of completion of filing and service of their  
22 complaint. LR 3.2. To date, there has been no filing or service  
23 on the County defendants of the required RICO Case Statement.

24 The County defendants hereby request that the Court issue an  
25 order requiring filing and service of the RICO Case Statement  
26 within ten days of completion of valid service on each defendant  
27 and that the Twelfth Claim be dismissed with prejudice if  
28 plaintiffs fail to do so.

1 Dated this 18<sup>th</sup> day of January, 2006.

2 ANDY MILLER  
3 Prosecuting Attorney

4 By s/Ryan K. Brown  
5 RYAN K. BROWN, Chief Deputy (Civil)  
6 Prosecuting Attorney  
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10 **DECLARATION OF SERVICE**

11 I certify that I served, in the manner indicated below, a true  
12 and correct copy of the foregoing document as follows:

13 Gerry Greenfield, Jr.  
14 P.O. Box 6333  
15 Kennewick, WA 99336

X U.S. Regular Mail, Postage Prepaid  
G Legal Messenger  
G Overnight Express  
G Facsimile  
9 Electronic Notice Via ECF

16 Gerry Greenfield III  
17 3324 NE 6<sup>th</sup> Place  
18 Renton, WA 98056

X U.S. Regular Mail, Postage Prepaid  
G Legal Messenger  
G Overnight Express  
G Facsimile  
9 Electronic Notice Via ECF

19 Elizabeth Logsdon  
20 1114 W. 10<sup>th</sup> Ave. P-205  
21 Kennewick, WA 99336

X U.S. Regular Mail, Postage Prepaid  
G Legal Messenger  
G Overnight Express  
G Facsimile  
9 Electronic Notice Via ECF

22 Nicole Greenfield  
23 1114 W. 10<sup>th</sup> Ave. L-205  
24 Kennewick, WA 99336

X U.S. Regular Mail, Postage Prepaid  
G Legal Messenger  
G Overnight Express  
G Facsimile  
9 Electronic Notice Via ECF

25 Christopher W. Tompkins  
26 BETTS, PATTERSON & MINES, P.S.  
27 One Convention Place, Ste. 1400  
701 Pike Street  
Seattle, WA 98101-3927

G U.S. Regular Mail, Postage Prepaid  
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G Overnight Express  
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1 Dan F. Hultgrenn  
2 KUFFEL, HULTGRENN, KLASHKE & SHEA,  
3 LLP  
4 1915 Sun Willows  
5 Pasco, WA 99301

**G** U.S. Regular Mail, Postage Prepaid  
**G** Legal Messenger  
**G** Overnight Express  
**G** Facsimile  
**X** Electronic Notice Via ECF

4 Kristina L.J. McKennon  
5 FLYNN, MERRIMAN & PALMER, P.S.  
6 830 N. Columbia Center Blvd., Ste. A  
7 Kennewick, WA 99336

**G** U.S. Regular Mail, Postage Prepaid  
**G** Legal Messenger  
**G** Overnight Express  
**G** Facsimile  
**X** Electronic Notice Via ECF

7 DATED this 18th day of January, 2006, at Kennewick, Washington.

8 S/Ryan K. Brown  
9 RYAN K. BROWN